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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 GREENFIELD MHP ASSOCIATES,
12 L.P.; STARLIGHT MHP, LLC; DAVIS
13 GROUP EXCHANGE, LLC; VILLA
CAJON MHC, L.P.,

14 Plaintiffs,

15 v.

16 AMETEK, INC; SENIOR
17 OPERATIONS, LLC; and DOES 1
18 through 100, inclusive,

19 Defendants.

Case No.: 3:15-cv-01525-GPC-AGS

**(1) ORDER GRANTING MOTION
TO STRIKE [ECF No. 184]; and**

**(2) AMENDED TRIAL
SCHEDULING ORDER**

20 Before the Court is Defendant Ametek, Inc.'s motion to strike portions of the
21 Plaintiffs' operative complaint. (ECF No. 184.) For the reasons set forth below, the
22 Court GRANTS the motion.

23 **I. Background**

24 On April 12, 2018, the Court granted in part Ametek's motion for summary
25 judgment after concluding that Plaintiffs could not obtain the damages they request in
26 this case. (ECF No. 180.) The Court noted that declaratory and/or injunctive relief may
27 be available in this case, and therefore it permitted Plaintiffs to file an amended
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1 complaint that adds requests for declaratory and/or injunctive relief. (*Id.* at 36–37.¹)
2 Plaintiffs filed a Second Amended Complaint (the “SAC”). (ECF No. 182.) Ametek
3 now moves to strike certain portions of the SAC. (ECF No. 184.)

4 **II. Legal Standard**

5 Federal Rule of Civil Procedure 12(f) provides that, upon a motion, “[t]he court
6 may strike from a pleading an insufficient defense or any redundant, immaterial,
7 impertinent, or scandalous matter.” “The function of a 12(f) motion to strike is to avoid
8 the expenditure of time and money that must arise from litigating spurious issues by
9 dispensing with those issues prior to trial.” *Whittlestone, Inc. v. Handi-Craft Co.*, 618
10 F.3d 970, 943 (9th Cir. 2010) (quoting *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th
11 Cir. 1993)).

12 **III. Discussion**

13 **A. Jury Trial Demand**

14 First, Ametek moves to strike Plaintiffs’ jury trial demand. (ECF No. 184-1 at 6–
15 9.) In their response, Plaintiffs indicate that they “do not oppose Ametek’s motion to
16 strike the jury demand.” (ECF No. 192 at 3.) The jury trial demand is therefore stricken
17 from the SAC.

18 **B. Previously Dismissed Causes of Action**

19 Ametek asks the Court to strike the causes of action in the SAC that the Court
20 previously dismissed in its November 18, 2015 ruling. (*See* ECF No. 34.) Again,
21 Plaintiffs “do not oppose striking the previously dismissed causes of action at this
22 juncture.” (ECF No. 192 at 3.) Plaintiffs’ claims that have been previously dismissed are
23 hereby stricken from the SAC.

24 **C. Request for Declaratory Relief**

25 In its summary judgment ruling, the Court explained that the envisioned
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28 ¹ Page citations in this order refer to the pagination provided by the CM/ECF system.

1 declaratory judgment in this case would find Ametek liable for the contamination on
2 Plaintiffs' properties. (*See* ECF No. 180 at 33.) In response, Plaintiffs added to their
3 complaint a request for a declaration from the Court stating that (1) "Ametek is
4 responsible for the contamination that exists on Plaintiffs' properties," (2) "Ametek is
5 liable to Plaintiffs for the contamination that exists on Plaintiffs' properties," and
6 (3) "Ametek is responsible for reimbursing Plaintiffs for the full amount of any and all
7 past, present and future costs that Plaintiffs have incurred or will incur to remediate
8 and/or mitigate the contamination that Ametek has caused to exist on Plaintiffs'
9 properties." (FAC at 37, 39.) Ametek moves to strike the third prong of Plaintiffs'
10 request for declaratory relief because it "goes beyond the scope of the Court's order on
11 the [motion for summary judgment] and raises subject matter jurisdiction concerns."
12 (ECF No. 184-1 at 10.) The Court agrees on the first ground, and therefore need not
13 address the second ground.


14 In its summary judgment ruling, the Court explained that a declaratory judgment in
15 this case would simply find "Ametek liable for the contamination of Plaintiffs' property,"
16 and explained that Plaintiffs could "use that judgment to bring successive actions against
17 Ametek for recoupment of costs Plaintiffs incur as they remediate their own properties."
18 (ECF No. 180 at 33.) The Court permitted Plaintiffs to amend their complaint only so as
19 to add a request for such a declaratory judgment. The first two prongs of the request for
20 declaratory relief—which seek a declaration that Ametek is "responsible for" the
21 contamination and "liable to" Plaintiffs as a result—satisfy the amendment that was
22 permitted by the Court. To the extent that the third prong goes beyond that permission,
23 such amendment was not permitted and should be stricken. *See, e.g., Hiranamek v.*
24 *Clark*, No. C-13-0228 EMC, 2013 WL 4734025, at *2 (N.D. Cal. Sept. 3, 2013). To the
25 extent that the third prong repeats what is requested in the first two prongs, the third
26 prong is "redundant." Fed. R. Civ. P. 12(f). As a result, the Court finds it appropriate to
27 strike the third prong of Plaintiffs' request for declaratory relief.

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For the reasons explained above, the Court GRANTS the motion to strike. In light of the Court's striking Plaintiffs' jury trial demand, the trial set for August 6, 2018, will be a bench trial.

1. The operative pleading, complaint, as well as any cross complaint, or third party complaint, and operative answers;
2. Separate trial briefs, not to exceed twenty pages in length;
3. Any stipulations or agreements;
4. A joint witness list in table format, including columns designated for the party that will be calling the witness, time estimates for direct and cross-examination, and a brief description of each witness's testimony;
5. A joint list of deposition designations, if any;
6. A joint exhibit list in table format, including columns designated for exhibit numbers, a description of the exhibits, whether the admissibility of an exhibit is disputed, the date an exhibit is marked, and the date the exhibit is admitted; and
7. Separate proposed findings of fact and conclusions of law.

IT IS SO ORDERED.


Hon. Gonzalo P. Curiel
United States District Judge